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IN THE

Supreme Court of the United States

OCTOBER TERM, A. D. 1933.

No. 106

W. D. SANDERS, PETITIONER,

vs.

ARMOUR FERTILIZER WORKS AND NATIONAL FIRE INSURANCE COMPANY.

ANSWER AND BRIEF OF ARMOUR FERTILIZER WORKS IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE FIFTH CIRCUIT.

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Supreme Court of the United States

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W. D. SANDERS,
Petitioner,

vs.

ARMOUR FERTILIZER WORKS AND NATIONAL FIRE INSURANCE COMPANY,

ANSWER AND BRIEF OF ARMOUR FERTILIZER WORKS IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE FIFTH CIRCUIT.

ANSWER.

Armour Fertilizer Works, a corporation, respondent herein, in answer to the petition for writ of certiorari which was filed in this Honorable Court at the October Term, 1933, respectfully shows:

I. It denies that the judgment rendered by the Municipal Court of Chicago in favor of Armour Fertil-

izer Works, respondent herein, and against W. D. Sanders, petitioner herein, was an interlocutory judgment as alleged by petitioner, and says that under the laws of the State of Illinois for the purposes of attachment and garnishment action, said judgment was final and conclusive as between petitioner and this respondent, being entered by a court of competent jurisdiction after service of notice on the defendant (petitioner herein) and publication in accordance with the laws of the State of Illinois, after a hearing of evidence and an assessment of damages by the court, and was a judgment on which the plaintiff (respondent herein) was entitled to have execution issue against the credits attached. (R. 115-116.)

II. It denies that it resorted to the courts of a state other than Texas in order to defeat the exemption laws of Texas, as alleged by petitioner, and says that the record shows it to be an Illinois corporation, with its principal office and place of business in Chicago, Illinois (R. 193); that the action in connection with which the writs of garnishment were issued was instituted in a court of the plaintiff's (respondent's) domiciliary state, on negotiable promissory notes executed by W. D. Sanders, petitioner herein, in which notes the said W. D. Sanders waived and renounced for himself and family any and all exemption rights under or by virtue of the Constitution or Laws of the State of Texas or any other state. (R. 89-97.)

III. It denies that a Federal District Court sitting in Texas and hearing an interpleader action instituted by fire insurance companies, garnishees, under 28 U. S. C. A. 41 (26) as rewritten by the Act of May 8, 1926, is to be regarded as a Texas court and bound to give full force and effect to the exemption laws of the State of Texas, as against rights previously acquired

by an attaching creditor in the State of Illinois, especially where, as in this case, such attaching creditor was domiciled in Illinois and was enjoined from enforcing its Illinois judgment by an injunction issued out of the United States District Court in Texas and sent to and served by the United States Marshall for the Northern District of Illinois on respondent in the State of Illinois.

IV. This litigation grew out of an action instituted by Armour Fertilizer Works, respondent, against W. D. Sanders, petitioner, in the Municipal Court of Chicago, at Chicago, Illinois, based upon several promissory notes executed by Sanders, payable to respondent, aggregating $7,589.81. (R. 88-100.) The National Fire Insurance Company and Hartford Fire Insurance Company, both having offices and agents in Chicago, were made garnishees and were served with process in Illinois. (R. 103-106.) Service was made on Sanders through the mailing of notice to him by the clerk of the Municipal Court of Chicago and also by publication of such notice in accordance with the Illinois statute. (R. 111-114.) Following the period required for publication, Sanders not appearing, an order of default was entered against him for want of appearance, whereupon the Illinois court heard the evidence, made a finding of $7,589.81 due the plaintiff, assessed the plaintiff's damages in that sum, and entered final judgment for that amount upon which judgment the issuance of execution was ordered. (R. 115-116.) Under the law of Illinois (Section 35 of the Attachment Act), it is provided that:

> "* * * such judgment shall bind, and a special execution shall issue against, the property, credits and effects attached, and no execution shall issue against any other property of the defendant * * *" (R. 145.)

Both garnishees answered in the Illinois proceeding admitting indebtedness to Sanders (R. 117-132), but before plaintiff (respondent herein) had judgment entered against the garnishees, the interpleader actions were filed in the United States District Court in Texas, which court enjoined respondent from further proceedings with its action in Illinois. Respondent thereafter appeared in the interpleader action in Texas, asserting that its garnishment action and judgment against Sanders in the Municipal Court of Chicago entitled it to the proceeds of Sanders' insurance as against his claim of homestead exemption. (R. 29-56.) The District Court awarded the insurance to Sanders (R. 200-201), but this judgment was reversed by the Circuit Court of Appeals, which awarded the insurance to respondent. (R. 222-231, 239-240.)

On the trial of the interpleader action in the District Court, it was stipulated by petitioner and respondent that the sums of money payable to petitioner under said insurance policies were due at the time of the institution of respondent's action in the Municipal Court of Chicago and at the time of the service of the garnishment writ upon the garnishees there, and also that under the laws of Illinois the Texas homestead exemption of W. D. Sanders would not be a good defense in the garnishment suits. (R. 86.)

Wherefore respondent prays that said petition for writ of certiorari be dismissed with costs; and this respondent will ever pray, etc.

ARMOUR FERTILIZER WORKS,
By CHARLES J. FAULKNER, JR.,
Chicago, Illinois.

BRIEF AND ARGUMENT.

PRELIMINARY STATEMENT OF THE QUESTIONS IN CONTROVERSY.

Prior to the institution of this interpleader action in the Federal Court in Texas, Armour Fertilizer Works, an Illinois corporation, recovered a judgment against W. D. Sanders, a citizen of Texas, in a court of competent jurisdiction in the State of Illinois, which judgment exceeded the amount of the insurance money in controversy in the Federal Court action. (R. 85.) Hereafter we shall refer to the parties simply as Armour and Sanders.

Under the Illinois law, Armour's judgment against Sanders at once became binding upon the insurance credits attached there. (R. 145.) Those same credits, now represented by the money itself, are claimed by Sanders in the instant case, in total disregard of Armour's prior judgment. It was stipulated at the trial of the instant case (R. 86) that the Texas exemption law was no bar in Illinois to the binding effect of the Illinois judgment on the insurance credits attached. The Circuit Court of Appeals held that the Illinois garnishment proceeding, which as against Sanders was conclusively binding upon the insurance credits attached in Illinois, must be given the same force and effect in this controversy between Armour and Sanders in the Federal Courts in Texas, in view of the full faith and credit clause of the Federal Constitution. (R. 222-231.)

All through this litigation Sanders has conceded that, if Armour's Illinois judgment were final, the

insurance money should properly be awarded to Armour. And Sanders' sole contention has been, and still is, that Armour's Illinois judgment is not final, but merely interlocutory, and from this premise Sanders argues that Armour is seeking in this case to avail itself of the courts and laws of Texas to perfect its interlocutory judgment in the state of Texas, in which state the local exemption laws stand as a complete bar. It is Armour's contention that Sanders' whole argument is based upon a false premise, as we shall proceed to demonstrate by showing unto this Honorable Court that Armour's Illinois judgment against Sanders, under the statutes and court decisions in the State of Illinois, was a final and conclusive adjudication against Sanders of Armour's superior equity in the insurance money in question.

In this controversy between Armour and Sanders, the Circuit Court of Appeals was not concerned with the rights of the insurance company garnishees or with the rights of any other creditors of Sanders. Therefore, the sole question in this case is reduced to this:

What is the nature and effect, *solely as between Armour and Sanders,* of Armour's judgment against Sanders in Illinois?

I.

ARMOUR'S ILLINOIS JUDGMENT AGAINST SANDERS WAS A FINAL AND CONCLUSIVE ADJUDICATION AGAINST HIM OF ARMOUR'S SUPERIOR EQUITY IN THE INSURANCE MONEY IN QUESTION, AND THE CIRCUIT COURT OF APPEALS NEITHER ERRED NOR HELD CONTRARY TO THE DECISIONS OF THIS HONORABLE COURT OR THE COURTS OF ILLINOIS, IN GIVING FULL RECOGNITION TO ARMOUR'S SUPERIOR EQUITY SO ADJUDICATED BY A COURT OF COMPETENT JURISDICTION.

Illinois Attachment Act, Secs. 35, 37.

The National Bank of America v. *The Indiana Banking Company,* 114 Ill. 483, 2 N. E. 401.

People v. *Curtis,* 341 Ill. 628, 174 N. E. 30.

Gibbard v. *Brewers Malting Company,* 185 Ill. App. 254.

State Bank of Chicago v. *Thweatt,* 111 Ill. App. 599.

Martin v. *Dryden,* 6 Ill. 187.

Mutual Life Insurance Company v. *Ritcher,* 196 Ill. App. 27.

Baber v. *Galbraith* (Tex. Civ. App.), 186 S. W. 345.

Conway v. *Caswell,* 121 Ga. 254, 48 S. E. 956.

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Stahl v. *Webster,* 11 Ill. 511.

King v. *Cross,* 176 U. S. 396, 44 L. ed. 211.

Metcalf v. *Barker,* 187 U. S. 165, 47 L. ed. 122.

U. S. Constitution, Art. 4, Sec. 1.

Cases cited by Sanders and herein distinguished:

Lancashire Insurance Co. v. *Corbetts,* 165 Ill. 592, 46 N. E. 631.

Becker v. *Illinois Central Railroad Co.*, 250 Ill. 40, 95 N. E. 42.
Bigelow v. *Andress*, 31 Ill. 322.
McElwee v. *Wilce*, 80 Ill. App. 338.
Cole v. *Cunningham*, 133 U. S. 107, 33 L. ed. 538.

(A) ARMOUR'S ILLINOIS JUDGMENT WAS FINAL AND CONCLUSIVELY BINDING UPON THE INSURANCE MONEY, TO THE EXCLUSION OF SANDERS.

Sanders' principal argument is that, since no final judgment was entered against the insurance company garnishees in the Illinois proceeding, prior to the filing of this interpleader action and the issuance of the injunction against Armour, the Illinois proceeding is of no force or effect in so far as *he* is concerned. Sanders cites cases in which the rights of *garnishees* were involved and where the courts have held that garnishees are not conclusively bound by the garnishment proceeding until final judgment is entered against them. Sanders also argues that there might be other *creditors* in Illinois, who might be entitled to share in the insurance money; a fact not shown by the record. Because of this protection which the law gives to garnishees and other creditors, Sanders contends that Armour's Illinois judgment is not final and conclusive against *him*.

The weakness of Sanders' position is nowhere more clearly shown than by the fact that he is compelled to rely upon equities not involved in his controversy with Armour and which equities exist only in favor of persons other than himself.

It has never been contended by Sanders that the Illinois court did not have jurisdiction of the garnishment action, or that he was not properly served with non-

resident notice as required by Illinois law. On the contrary, both of these facts were stipulated at the trial of the instant case. (R. 85.) The sole question is, and always has been, whether the Illinois judgment against Sanders and in favor of Armour was a final and conclusive adjudication, as between Sanders and Armour, of Armour's superior right to the insurance credits attached in Illinois.

Section 35 of the Illinois Attachment Act (R. 145) reads:

> "When the defendant shall be notified as aforesaid, but not served with process, and shall not appear and answer the action, judgment by default may be entered, which may be proceeded upon to *final judgment* as in other cases of default, * * * and *such* judgment shall *bind,* and a special execution shall issue against, the property, *credits* and effects attached, and no execution shall issue against any other property of the *defendant.*" (Italics ours.)

This Section 35 of the Illinois Attachment Act makes no mention of a judgment against garnishees who have been served with process in Illinois, but the section does specifically refer to a "final judgment" against the nonresident defendant (Sanders), which judgment shall "bind" the insurance "credits" attached in Illinois.

The judgment entered against Sanders by the Illinois court (R. 115-116) recites: First, an entry of *default* against Sanders for want of an appearance; second, the hearing of evidence and the assessment of Armour's damages; and third, the *final* judgment of the court against Sanders, reading as follows:

> "This cause coming on for *further* proceedings herein, it is considered by the court *that the attachment herein be and it hereby is sustained,* that the plaintiff have *judgment on the default* and as-

sessment of damages herein, and that the plaintiff have and recover of and from the defendant, W. D. Sanders, the damages of the plaintiff amounting to the sum of seven thousand, five hundred eighty-nine and 81/100 ($7,589.81) in form as aforesaid assessed, together with the costs by the plaintiff herein expended and that *execution issue* therefor." (Italics ours.)

No further judgment would or could have been entered against Sanders. The judgment was final and the issuance of execution was ordered. Under the express language of Section 35 of the Illinois Attachment Act, quoted above, this judgment was binding upon the insurance credits attached in Illinois, thereby giving Armour, as against Sanders, a superior equity therein. A judgment against the insurance company garnishees, which Sanders contends was necessary to make Armour's judgment binding upon him, would have been a judgment in favor of Sanders, which judgment would have decided nothing as between Armour and Sanders.

Said the Illinois Supreme Court in *The National Bank of America* v. *The Indiana Baking Company*, 114 Ill. 483, 2 N. E. 401:

"It has been uniformly held, since the decision in *Stahl* v. *Webster*, 11 Ill. 511, that by the practice which obtains in this state, the judgment against the garnishee must be rendered in favor of the attachment or judgment *debtor*. * * * for in all actions at law the suit must be in the name of the party in whom is the legal interest of the subject matter." (Italics ours.)

It is not apparent how a judgment against the insurance company garnishees in the Illinois action could have conferred upon Armour any added right against Sanders. Such a judgment would have adjudicated solely the liability of the insurance companies

upon the insurance contracts between them and Sanders. Whether or not the insurance company garnishees are liable upon their insurance contracts with Sanders is a moot question in the instant case, because they have admitted liability and have paid the insurance money into the District Court.

If anything further is necessary to demonstrate that Armour's Illinois judgment against Sanders was final, we would refer this Honorable Court to the Illinois cases of *People* v. *Curtis,* 341 Ill. 628, 174 N. E. 30, and *Gibbard* v. *Brewers Malting Company,* 185 Ill. App. 254. In *People* v. *Curtis, supra,* the Illinois Supreme Court held:

> "There must be a final judgment which settles the rights of the parties in respect to the subject matter of the suit and concludes them until it is reversed or set aside to authorize an appeal to this court."

In *Gibbard* v. *Brewers Malting Company, supra,* the Illinois court held that a judgment against a defendant in a garnishment action may be appealed, although no judgment has been entered against the garnishees. Service was had upon the defendant by publication, as was done in Armour's Illinois garnishment action. Also, as in Armour's Illinois garnishment action, default was entered against the defendant for want of an appearance, damages were assessed against the defendant, and final judgment was entered against the defendant upon the default. The defendant appealed. No judgment had been entered against the garnishees. The Illinois court held:

> "Defendant in attachment may appeal from a default judgment entered against him, though the case has not been finally disposed of as to the garnishees."

As was said by the Illinois court in *State Bank of Chicago* v. *Thweatt*, 111 Ill. App. 599:

> "The judgment rendered against the defendant prior to the trial of the garnishment issue, was therefore final only in the sense that *it bound him to the extent of any debt due by the bank* (garnishee) *to him*, or of his interest in any property belonging to him in the hands of the garnishee, *at the time of the service of the attachment writ.* Such a judgment was not a final one in the sense that the original attachment cause was disposed of, but only *final as to the defendant to the extent stated*, and was not final as to the garnishee." (Italics and parenthesis ours.)

Armour's Illinois judgment against Sanders was final and appealable under Illinois law. It bound Sanders to the extent of the credits due him by the insurance company garnishees at the time of the service of the garnishment writs. It settled the rights of Armour and Sanders in respect to the insurance credits attached and is conclusive between them. It established Amour's superior equity in the insurance money, to the exclusion of Sanders, and with the insurance money now on deposit with the District Court below, the Circuit Court of Appeals properly held that the money should be paid to Armour.

(B) THE INSTANT CASE IS NOT GOVERNED BY THE ILLINOIS DECISIONS IN WHICH THE RIGHTS OF GARNISHEES WERE ADJUDICATED.

Sanders argues that the Circuit Court of Appeals below gave greater effect to the Illinois garnishment proceeding than would have been given to it in Illinois. He cites *Lancashire Insurance Co.* v. *Corbetts*, 165 Ill. 592, 46 N. E. 631; *Becker* v. *Illinois Central Railroad Co.*, 250 Ill. 40, 95 N. E. 42; *Bigelow* v. *Andress*, 31 Ill. 322, and *McElwee* v. *Wilce*, 80 Ill. App. 338. If

we keep in mind, as we must do at all times, that the present controversy between Armour and Sanders is not concerned with the equities in favor of the insurance company garnishees, it is easily discernable that these cases cited by Sanders do not sustain his argument.

In the Lancashire case the insurance company garnishee was faced with the possibility of having to pay two judgments for the same liability. The controversy concerned the *garnishee's defense* in Illinois that it had paid a prior judgment entered against it in Wisconsin on the same debt. The Illinois Supreme Court simply held:

> "After such payment there was no longer in existence any debt to sustain the further proceedings by appellees in the Circuit Court of Cook County."

In the Becker case the Illinois Supreme Court was likewise concerned with the *garnishee's defense* that it had paid a prior judgment which had been entered against it in another state. As in the Lancashire case, the Illinois court did not pass upon the effect, as between an attachment creditor and his debtor, of the service of the writ of garnishment, followed by judgment for the attachment creditor against his debtor. Neither case decides this question which is in controversy in the instant case.

In the Bigelow case there were two questions presented for determination by the Illinois Supreme Court. One question concerned a charge of fraud which is not pertinent to the present controversy. The other question, as stated in the language of the Illinois Supreme Court (p. 330), was as follows:

> "Whether by commencing an attachment suit, and the service of garnishee process, the attaching creditor acquires such a lien upon property in

the hands of the garnishee, as will authorize a court of equity to interpose its restraining power, to prevent him from disposing of it *before a judgment and execution are had in the proceedings at law.*" (Italics ours.)

This question decided by the Illinois Supreme Court in the Bigelow case was one of jurisdiction only. The decision on this angle of the case is clearly stated in the syllabus, as follows:

"3. A party who has *simply commenced* his suit at law by suing out an attachment, and procured a *service* of garnishee process upon the fraudulent grantee of the debtor, stands in no better position to invoke the aid of a court of chancery to preserve the property in the hands of the garnishee, than he would if he had not sued out his attachment; he is still a *simple contract creditor.*

"4. As a general rule, a creditor must first reduce his debt to a *judgment* before he can resort to a court of equity for aid in its collection." (Italics ours.)

No such jurisdictional question is involved in the present controversy. Furthermore, Armour has not "simply commenced" its attachment suit in Illinois; it has actually reduced its claim against Sanders to judgment and is therefore more than a "simple contract creditor." If this Bigelow case is authority for any proposition applicable in the instant case, it is the proposition that, Armour having reduced its claim against Sanders to judgment in a court of law, it is entitled to full protection of that judgment in a court of equity.

The decision of the Illinois Appellate Court in the McElwee cases concerned merely the effect upon the garnishee of the service of the garnishment writ. This case did not decide what effect the service of garnishment writ may have as between the attaching creditor

and the principal defendant, and it is not in point on this question which is involved in the instant case.

(C) ARMOUR'S ILLINOIS JUDGMENT VESTED IN IT A SUPERIOR EQUITY IN THE INSURANCE MONEY, WHICH EQUITY MAY BE APTLY TERMED A LIEN, AND WHICH LIEN RELATED BACK TO THE DATE OF THE SERVICE OF THE GARNISHMENT WRITS.

The controlling Illinois precedent will be found in the case of *The National Bank of America* v. *The Indiana Banking Company,* 114 Ill. 483, 2 N. E. 401, which is the leading Illinois case on garnishment proceedings under the Illinois law. In that case, the Metropolitan Grain & Stock Exchange commenced a foreign attachment suit in the Superior Court of Cook County against The Indiana Banking Company, an Indiana corporation. The National Bank of America was duly served as garnishee in Chicago. Exactly the same procedure was followed as was followed in the attachment proceeding in question in the instant case. Service by the publication and mailing of notice was had upon The Indiana Banking Company, and judgment was taken against it, the same as the service and judgment against Sanders in the attachment action here in controversy. And likewise no judgment had been entered against the garnishee. *Prior* to the service of the garnishment writ upon The National Bank of America, The Indiana Banking Company had drawn two checks against its deposit with The National Bank of America. There were also some other checks which were drawn by The Indiana Banking Company, *subsequent* to the service of the garnishment writ. Under the common law rule in Illinois at that time, the issuance of a check operated as an assignment *pro tanto* of the drawer's fund on deposit with drawee bank. The question in the case was whether

The Indiana Banking Company, the nonresident defendant, could thus assign its bank account after the service of garnishment writ upon its debtor in Illinois. The Illinois Supreme Court held that only the two checks issued *prior* to the service of the garnishment writ were valid assignments; that the other checks which were issued *after* the service of the garnishment writ could not affect the fund attached. The Illinois Supreme Court said:

> "The principles of the former decisions have been recently restated by this court in the case of *Reeve* v. *Smith*, 113 Ill. 47, where it was said, in construing Section 37 of the Attachment Act, (Rev. Stat. 1874), that property, real and personal, attached, and funds in the hands of the garnishee, are placed on the same footing—that is, when attached, such property or funds are appropriated from that time to the payment of a certain class of judgment creditors specifically enumerated. *From the time of the levy or the service of the writ, the property or funds are held, by virtue of the Statute, for the benefit of all the creditors of the attachment debtor who shall obtain judgments against him within the time and in the manner specified in the Statute.* It is the whole property or fund attached and not any specific part or portion, that is held, until it shall be ascertained who or what creditors are entitled to share in the proceeds." (Italics ours.)

That Armour's Illinois judgment against Sanders conclusively bound the insurance money to the payment of Armour's judgment and vested in Armour a superior equity which may be aptly termed a lien, and that such lien when so established related back to the date of the service of the garnishment writs, is clearly illustrated in *Martin* v. *Dryden*, 6 Ill. 187, at pages 212 and 213, where the Illinois Supreme Court said:

> "Without a levy of the attachment, or the serv-

ice of a garnishee, the court has no jurisdiction to proceed, by publication of notice, to render any judgment. But, by the seizure of an estate or property of a defendant, or the *service of garnishment* upon any having estate, property, or effects of his in their hands, *the law has laid hold of a fund*, which it may condemn, and appropriate to the satisfaction of *whatever judgment it may render against the defendant*, and thereupon the Court proceeds to hear as to the indebtedness. * * *

"These remarks and views apply also to the question of lien. This specific appropriation of property must amount to something as to those who may deal in relation to it; else the defendant could, at any time before judgment, defeat the object of the party by a sale, and possibly, even the jurisdiction of the Court. We are of the opinion, that *the attachment is a lien from the date of the levy, when followed by a judgment, and which will have relation back to it.* This doctrine is sanctioned by numerous authorities, which I will not review." (Italics ours.)

Thus it will be observed that Sanders' right to defeat the appropriation of the insurance money toward the payment of Armour's claim was effectively cut off by the service of the garnishment writs upon the insurance companies in Illinois, and upon the entry of Armour's judgment against Sanders, Armour's superior right to the insurance money was conclusively established in so far as Sanders is concerned.

As the Circuit Court of Appeals below (R. 25) correctly held:

"'By a valid exercise of jurisdiction over the persons of the garnishees there present, the Illinois Court was in process of compelling payment of the insurance into court, and had on service sufficient to that end adjudged Sanders' indebtedness to Armour Fertilizer Works and the sufficiency of the attachment process. *There had arisen against*

him a right to detain the debt as a prospective fund and to apply it to the demands of plaintiff and other creditors, which may aptly be termed a lien. It dates from the service of the writ of garnishment." (Italics ours.)

Sanders concedes that this decision of the Circuit Court of Appeals is in accord with Illinois law, where he says at page 31 of his brief:

> "It will be noted that Section 37 of the Illinois Attachment Act (R. 145) provides that all judgments in attachment against the same defendant returnable at the same term shall have (sic) pro rata, according to the amount of the several judgments, in the proceeds of the property attached, either in the hands of a garnishee, or otherwise. This provision has been interpreted by the Illinois Supreme Court in *National Bank* v. *Indiana Banking Company, supra,* as well as in *Reeve* v. *Smith, supra,* as requiring that the fund or debt attached shall be held subject to *pro rata* distribution among all attaching creditors of the same debtor whose writs are returnable to the same term of court."

Sanders seeks to avoid the effect of the Illinois law, thus correctly announced, by the novel argument that, because there might have been other attachment creditors of Sanders entitled to the fund in Illinois, Armour who did attach must be denied the fund. As we have previously stated, this is not a controversy between Armour and other creditors of Sanders, and even if it were, the adjustment of the equities as between Armour and the other creditors could not possibly confer any additional benefits upon Sanders. Sanders' argument that the insurance money should be awarded to him, because the Illinois judgment did not definitely fix the amount which Armour might be entitled to receive for the reason that there might possibly be other

creditors of Sanders who are entiled to share therein, is clearly based upon the erroneous assumption that, if such rights of other creditors did exist, he would be entitled to the insurance money. We challenge this position taken by Sanders as wholly unsound and illogical. In interpleader actions, each claimant must rely upon the strength of his own title rather than upon the weakness of his adversary's title. *Mutual Life Insurance Company* v. *Ritcher,* 196 Ill. App. 27; *Baber* v. *Galbraith* (Tex. Civ. App.), 186 S. W. 345; *Conway* v. *Caswell,* 121 Ga. 254, 48 S. E. 956; 15 Ruling Case Law, p. 233; 33 Corpus Juris, p. 464.

Sanders vigorously criticizes the Circuit Court of Appeals for saying that the service of Armour's Illinois garnishment writs created a "lien" in favor of Armour. Sanders no doubt also feels the urge to criticize this Honorable Court for its statement in *Harris* v. *Balk,* 198 U. S. 215, 49 L. ed. 1023, where Mr. Justice Parkham said:

> "Notice to the debtor (garnishee) of the commencement of the suit, and notice not to pay to his creditor, is all that can be given, whether the garnishee be a mere casual and temporary comer, or a resident of the state where the attachment is laid. His obligation to pay to his creditor is *thereby* arrested, and a *lien* created upon the debt itself." (Italics ours.)

After all, what difference does it make what word is used to designate the right acquired by Armour in the Illinois garnishment proceeding? We are not dealing with words but with equities. It is true that, in so far as the garnishee is concerned, the service of garnishment writ and the entry of judgment against the principal defendant do not amount to a physical seizure of any tangible thing in the garnishee's hands, but if any credits are due by the garnishee to the principal

defendant, the service of the garnishment writ, followed by judgment against the principal defendant, conclusively binds those credits to the payment of the judgment and those credits are thereby as effectually attached, in so far as the principal defendant is concerned, as if a visible species of property had been levied upon. As was said by the Illinois Supreme Court in *Stahl* v. *Webster*, 11 Ill. 511:

> "A debt due from another, is as much property, and as effectually attached, when the person owing it has been summoned as a garnishee, as is any visible species of property upon which the attachment may have been levied."

In the instant case, the only persons interested in the insurance money are Armour and Sanders, and as between Armour and Sanders, most certainly Armour's Illinois judgment against Sanders is conclusively binding upon the insurance money and may be aptly referred to as giving Armour a lien thereon in so far as Sanders is concerned. Armour's superior equity has been fixed by the judgment of a court of competent jurisdiction in Illinois, and that judgment is not subject to review or collateral attack in the federal courts in Texas. The insurance money is now on deposit with the District Court awaiting distribution. This money represents the credits to which Armour's superior equity had attached before the deposit was made, changed only in form. But equity disregards form for substance, and Armour's superior equity was not cut off or destroyed by the voluntary payment of the insurance credits into the District Court in the form of actual money.

(D) ARMOUR, A CITIZEN OF ILLINOIS, BY ITS ILLINOIS GARNISHMENT ACTION, WAS NOT SEEKING TO AVOID THE EXEMPTION LAWS OF TEXAS, BUT WAS SIMPLY RESORTING TO THE COURTS OF ITS OWN STATE TO COLLECT A DEBT, AS ANY OTHER CITIZEN OF ILLINOIS MIGHT LAWFULLY HAVE DONE.

Sanders makes the further argument that the Circuit Court of Appeals below erred in its interpretation of the prior decisions of this Honorable Court. He relies principally upon *Cole* v. *Cunningham*, 133 U. S. 107, 33 L. ed. 538. He concedes that there is a distinction between that case and the present one, in that the plaintiff in the garnishment action in that case was fraudulently attempting to evade the laws of his own state. But Sanders makes the startling assertion that this distinction is not material, notwithstanding the later decision of this Honorable Court in *King* v. *Cross*, 176 U. S. 396, 44 L. ed. 211, wherein this very distinction was held to be of controlling significance. In *Cole* v. *Cunningham* the question before this Honorable Court was stated by Chief Justice Fuller in the first paragraph of the opinion as follows:

> "The question to be determined is, whether a decree of the Supreme Judicial Court of Massachusetts restraining citizens of that Commonwealth from the prosecution of attachment suits in New York, brought by them for the purpose of evading the laws of their domicile, should be reversed upon the ground that such judicial action in Massachusetts was in violation of article IV, sections 1 and 2, of the Constitution of the United States."

This is further shown by the words of Mr. Justice Miller in his dissenting opinion, where he said:

> "But the whole argument of the Court is that, because Butler, Hayden & Co. were citizens of Massachusetts, they were under some superior obligation to the law of Massachusetts, and to be

governed by the rights that law conferred, which prevented them from availing themselves of the law of New York that gave them this superior right."

This Honorable Court held that the State of Massachusetts had the right to control the action of its citizens beyond the borders of the state to the extent of preventing those citizens from perpetrating a fraud upon their fellow citizens through legal proceedings in another state and thereby evading the laws of their own domicile.

We respectfully submit to this Honorable Court that there is not even a suggestion in this record that, by the prosecution of its garnishment action in Illinois, Armour was attempting to evade the exemption laws of the State of Texas. There are no circumstances in this record from which may be inferred even a suspicion that Armour even knew that the insurance money in question was exempt from garnishment process within the State of Texas. The comments to the contrary, made by Judge Hutcheson and by Sanders, are wholly unjustifiable on the record in this case. *Cole v. Cunningham, supra,* is most certainly not in point in the present case.

That this is so is clearly apparent from this Honorable Court's decision in the later case of *King* v. *Cross, supra,* in which it was held that the service of a garnishment writ in the State of Rhode Island was paramount to a Massachusetts judgment subsequently entered against the garnishee debtor, although the Massachusetts judgment was prior to any judgment against the garnishee debtor in the Rhode Island garnishment action. In that case, state insolvency proceedings were begun against the principal debtor in Massachusetts, where he was domiciled. The next day a garnishment

writ was issued and served in Rhode Island in a non-resident attachment suit filed there that day by a citizen of Rhode Island against the insolvent Massachusetts debtor. Subsequently, the Massachusetts insolvency assignee was appointed and all of the insolvent debtor's assets, tangible and intangible, vested in the assignee by operation of law. The insolvency assignee then instituted suit in Massachusetts against the Rhode Island garnishee debtor. During the pendency of the Massachusetts suit, the insolvency assignee assigned the claim to King, who prosecuted the suit to final judgment in Massachusetts against the Rhode Island garnishee debtor. King then intervened in the Rhode Island garnishment proceeding, which had not yet proceeded to judgment against either the principal debtor or the garnishee debtor, and there claimed the attached fund to the exclusion of the Rhode Island attachment creditor. The Rhode Island trial court entered judgment for the Rhode Island attachment creditor against the principal defendant, the insolvent Massachusetts debtor, and sustained the attachment. The judgment was affirmed by the Rhode Island Supreme Court, and. upon writ of error, by this Honorable Court.

Before this Honorable Court it was contended, among other things, (1) That the legal effect of the Massachusetts insolvency proceedings was to vest in the Massachusetts court all credits owing to the insolvent Massachusetts debtor, and that therefore there could be no debt owing to the insolvent Massachusetts debtor in the Rhode Island garnishment proceedings; and (2) That under the Massachusetts Insolvency Statute all attachments made within four months were dissolved, and that therefore the debt in question was exempt from garnishment in Rhode Island.

On the first point this Honorable Court held that the issuance and service of the Rhode Island garnishment writ, several days before the non-resident debtor's estate vested in the Massachusetts insolvency assignee, had the legal effect of charging the debt in question with the attachment, so that any title which the assignee acquired was subject to the attachment.

On the second point this Honorable Court held that the Massachusetts Insolvency Statute, dissolving attachments and exempting the insolvent debtor's estate from attachment in Massachusetts, had no extraterritorial effect, and therefore did not control the attachment levied in Rhode Island.

That this Honorable Court in *King* v. *Cross* fully recognized the distinction between that case and *Cole* v. *Cunningham* is clearly shown by the following quotation from the opinion of Mr. Justice White:

> "The case as presented does not involve the power of a Massachusetts court to assert control over a citizen of that State in order to prevent him from prosecuting in Rhode Island an attachment levied by him upon property in Rhode Island, in supposed violation of the laws of Massachusetts. On the contrary, the question here is simply whether a citizen of Rhode Island was prevented in the courts of his own State from levying an attachment upon a debt due by a citizen and resident of Rhode Island to a citizen and resident of Massachusetts because such levy was in conflict with the Massachusetts insolvent statutes."

Armour is a citizen of Illinois where it was proceeding in a perfectly lawful and orderly manner to collect a debt. Its good faith is not questioned by the pleadings or evidence in this case. It was simply resorting to the courts of the State of its domicile, as any other citizen of Illinois might lawfully have done. It was

not seeking to avoid the exemption laws of the State of Texas. *King* v. *Cross* is the controlling precedent of this Honorable Court in the instant case. Armour's claim to the insurance money in question is just as free from the Texas exemption laws, as was the claim of the Rhode Island attachment creditor free from the exemption under the Massachusetts Insolvency Law. In both cases the superior equities of the attaching creditors were fixed by the laws of states in which the exemption laws relied upon were ineffective. Armour's superior equity is even more conclusively established in the instant case, because of Armour's final Illinois judgment against Sanders; whereas, in *King* v. *Cross*, this Honorable Court held that the attaching creditor's superior equity was established by the mere service of the garnishment writ.

(E) IN THE INSTANT CASE, ARMOUR HAS NOT SOUGHT TO ACQUIRE ANY RIGHT TO THE INSURANCE MONEY IN TEXAS CONTRARY TO THE PUBLIC POLICY OR LAWS OF THE STATE OF TEXAS, BUT HAS MERELY ASKED FOR RECOGNITION OF THE LIEN PREVIOUSLY ACQUIRED BY IT IN ILLINOIS, AS REQUIRED BY THE FULL FAITH AND CREDIT CLAUSE OF THE FEDERAL CONSTITUTION.

Sanders' whole argument completely disregards the well recognized distinction between the *creation* and the *enforcement* of liens. Upon the service of the garnishment process under the Illinois law, Armour acquired an inchoate lien upon the insurance credits attached, which lien, upon judgment being entered against Sanders, became a vested right entitling Armour to have the insurance money applied to the payment of its judgment. It is of course true, as in the case of all liens, that further proceedings were necessary to *enforce* Armour's lien. Nevertheless Armour's lien *existed* and was vested from and after the entry of the judgment against Sanders.

The distinction between the creation and the enforcement of a lien was fully recognized by this Honorable Court some thirty years ago in the case of *Metcalf* v. *Barker*, 187 U. S. 165, 47 L. ed. 122. It is worthy of note that the decision in that case set an entirely new precedent. Prior to that time it seems to have been well settled that the beginning of a creditor's suit to reach equitable assets gave such a creditor at least an inchoate lien; but the authorities were quite equally divided as to whether, when the suit was begun more than four months before bankruptcy of the debtor, such a lien was dissolved under the Bankruptcy Act. *Metcalf* v. *Barker* settled the question. In that case this Honorable Court held that an equitable lien *acquired* by the filing of a creditor's bill more than four months before the defendant's bankruptcy must be recognized by the bankruptcy court, although final judgment decreeing the *enforcement* of the lien was not entered until within the four months preceding bankruptcy. This Honorable Court said:

> "Doubtless the lien created by the judgment creditor's bill is contingent in the sense that it might possibly be defeated by the event of the suit, but in itself, and so long as it exists, it is a charge, a specific lien, on the assets, not subject to being devested save by payment of the judgment sought to be collected."

And this Honorable Court further said:

> "In our opinion the conclusion to be drawn from this language (meaning Section 67f of the Federal Bankruptcy Act) is that it is the lien *created* by a levy, or a judgment, or an attachment, or otherwise, that is invalidated. * * * A judgment or decree in *enforcement* of an otherwise valid *pre-existing* lien is not the judgment denounced by the Statute, which is plainly confined to judgments creating liens." (Italics and parenthesis ours.)

We respectfully submit that the Circuit Court of Appeals neither erred nor held contrary to the decisions of this Honorable Court or the courts of Illinois, in giving full recognition to Armour's superior equity and in awarding the insurance money to Armour, as required by the full faith and credit clause of the United States Constitution. (Art. 4, Sec. 1.)

II.

IN AWARDING THE INSURANCE MONEY TO ARMOUR, THE CIRCUIT COURT OF APPEALS DID NOT VIOLATE ANY OF THE PROCEDURAL OR REMEDIAL LAWS OF THE STATE OF TEXAS.

Vogel v. *Thiesing*, 55 Fed. (2d) 205.
Duncan v. *Gegan*, 11 Otto 810, 25 L. ed. 875.
Illinois Attachment Act, Sec. 35.
U. S. Constitution, Art. 4, Sec. 1.

(A) THIS IS AN INTERPLEADER ACTION IN WHICH ARMOUR AND SANDERS, AS ADVERSE CLAIMANTS, ARE EACH SEEKING TO ASSERT AN INDEPENDENT TITLE TO THE INSURANCE MONEY, AND THE PROPER DISTRIBUTION OF THE MONEY IN THIS ACTION DOES NOT INVOLVE THE LEVYING OF ANY TEXAS ATTACHMENT, GARNISHMENT, OR EXECUTION, IN VIOLATION OF ANY OF THE LAWS OF TEXAS.

Armour has never sought, in this interpleader action, to *acquire* any rights in this insurance money, within the State of Texas, in violation of the law or public policy of that state. Armour's case is based upon the contention that the rights which it claims in the insurance money *were acquired by it by virtue of the garnishment proceedings in a court of competent jurisdiction in Illinois,* where the insurance credits had a situs for the purpose of garnishment, and where such credits were concededly not exempt from such process. And Armour has merely asked that the federal courts

in Texas recognize those substantive rights and give them effect there.

In so far as concerns the controversy in the instant case, it may be conceded that the Texas exemption law is a bar to the successful prosecution of a garnishment action against the insurance credits within the State of Texas; but we would emphasize the fact that the instant case is not a garnishment action in any sense of the word. This is an interpleader action in which Armour and Sanders, as adverse claimants, are each seeking to assert an independent title to the insurance money now on deposit with the District Court. We are familiar with the rule that the exemption laws of Texas apply equally to executions levied on money judgments rendered in Texas by both the federal and state courts. But in the instant case Armour has never sought a money judgment against Sanders in Texas, either on the debt or on the Illinois judgment. The proper determination of the controversy in the instant case does not involve the entry of such a judgment. Nor does the proper distribution of the insurance fund in question involve the levying of any Texas attachment, garnishment or execution, to which the Texas exemption law might be interposed as a bar.

In discussing the case of *Vogel* v. *Thiesing*, 55 Fed. (2d) 205, at page 42 of his brief, Sanders concedes, quoting his exact words, that "there is no question but that any court in passing upon substantive rights must apply the law of the jurisdiction or jurisdictions in which those rights arose." And his whole argument under his "SECOND ASSIGNMENT OF ERROR" is based upon the erroneous assertion that Armour is seeking in the instant case to enforce a procedural remedy which conflicts with the established law and public policy of the State of Texas.

We believe that we have fully demonstrated under the first point of this brief that Armour is not seeking in the instant case to enforce any procedural remedy whatsoever in the State of Texas; but that, on the contrary, Armour is seeking recognition of a substantial vested equity which it acquired prior to the institution of the instant case.

That the Circuit Court of Appeals was bound to recognize Armour's superior equity in the insurance money in question is illustrated by the decision of this Honorable Court in *Duncan* v. *Gegan*, 11 Otto 810, 25 L. ed. 875. In that case this Honorable Court considered a case in which the Circuit Court of the United States for the District of Louisiana had acquired jurisdiction of the controversy before the case in the state court had been concluded but after the state court had fixed the relative priorities of the several lien claimants. Duncan, one of the lien claimants, then removed the case to the federal court and subsequently filed a bill in the federal court seeking to establish his lien as superior to all others. In holding that the status of Duncan's lien should be the same in the federal court as it was fixed by the state court, this Honorable Court said:

> "Whether the proceedings which were afterwards had in the Circuit Court at the instance of the appellant (Duncan) were part of the original suit removed from the state court, *or a new and distinct suit begun in the Circuit Court by the appellant himself after the removal*, the judgment of the Supreme Court of the State on the appeal in the original suit, *concludes him as to his rights thus litigated and disposed of.*" (Parenthesis and italics ours.)

(B) BY VALID EXERCISE OF JURISDICTION OVER GARNISHEES IN ILLINOIS, THE ILLINOIS COURT HAD, ON SERVICE UPON SANDERS SUFFICIENT TO THAT END, ADJUDGED SANDERS' INDEBTEDNESS TO ARMOUR AND SUSTAINED THE ATTACHMENT, WHEREBY, AS BETWEEN ARMOUR AND SANDERS, ARMOUR'S SUPERIOR EQUITY IN THE INSURANCE MONEY WAS FINALLY AND CONCLUSIVELY ADJUDICATED WITHOUT ANY RESORT TO THE PROCEDURAL OR REMEDIAL LAWS OF TEXAS.

Sanders concedes that the Illinois court had jurisdiction of the attachment action against him there; that non-resident service was had upon him as required by Illinois law; and that his insurance companies were duly served in Illinois, as garnishees. (R. 85.) And the record shows, without contradiction, that the Illinois court entered a default order against Sanders for want of an appearance, sustained the attachment, and entered a final judgment against him in favor of Armour (R. 115-116), in accordance with Section 35 of the Illinois Attachment Act. Sanders further concedes that, at the time the garnishment writs were served in Illinois, the insurance money attached there was then due and owing from the insurance company garnishees; that the insurance companies filed garnishee answers admitting the indebtedness; and that his homestead exemption was no defense in the Illinois action. (R. 86.)

Thus, by valid exercise of jurisdiction over the insurance company garnishees in Illinois, the Illinois court had, on service upon Sanders sufficient to that end, adjudged Sanders' indebtedness to Armour and sustained the attachment of the insurance credits, which credits in Illinois are conceded to have been free and clear of Sanders' exemption. Under Section 35 of the Illinois Attachment Act, this judgment against Sanders bound the insurance credits, and, as we have heretofore demonstrated, Armour thereby acquired a

superior equity in the insurance money, to the exclusion of Sanders. Armour's superior equity was thus acquired without resort to the procedural or remedial laws of Texas, and, in recognizing Armour's superior equity and awarding the insurance money to Armour, the Circuit Court of Appeals did not violate any of the procedural or remedial laws of Texas, but on the contrary properly obeyed the mandate of Section 1 of Article 4 of the United States Constitution.

III.

THE NOTES UPON WHICH ARMOUR OBTAINED ITS ILLINOIS JUDGMENT AGAINST SANDERS CONTAINED A WAIVER BY SANDERS OF HIS EXEMPTIONS.

Cameron v. *Fay*, 55 Tex. 58.
Whitsell v. *Jones*, 39 S. W. 405.
Alvarado National Bank v. *Ferguson*, 59 Tex. Civ. App. 113; 126 S. W. 622.
Russell v. *Hamilton*, 174 S. W. 705.
Texas Constitution, Art. XVI, Sec. 51.
Texas Revised Civil Statutes (1925), Articles 3833 and 3834.

(A) IF THE INSTANT CONTROVERSY IS TO BE DECIDED UPON THE BASIS OF WHAT ARMOUR AND SANDERS CONTEMPLATED AND AGREED WHEN SANDERS BECAME INDEBTED TO ARMOUR, THEN SANDERS MUST BE HELD TO HAVE EXPRESSLY WAIVED AND RENOUNCED FOR HIMSELF AND FAMILY ANY AND ALL EXEMPTION RIGHTS HE MIGHT HAVE UNDER AND BY VIRTUE OF THE CONSTITUTION AND LAWS OF THE STATE OF TEXAS, OR ANY OTHER STATE OF THE UNITED STATES.

In the argument under his "THIRD ASSIGNMENT OF ERROR" Sanders makes the statement (page 50 of his Brief) that

"When Armour extended credit to Sanders, it

did so with full notice of the fact that it could not under any normal circumstances expect to appropriate the homestead and household goods of Sanders to the satisfaction of its claim. It was perfectly satisfied to extend credit to him and to take his note, payable in Texas, upon this basis".

Upon this statement Sanders makes the argument that there is "no injustice in confining Armour to the enforcement of the remedial rights which were in contemplation at the time the debt in question was created." He further argues that "On the contrary, it seems to us that justice demands that Sanders be protected in the exemption rights accorded to him by the laws of his native State, and which were impliedly agreed to by Armour at the time that it first contracted with him."

If the instant controversy is to be decided upon the basis of what Armour and Sanders contemplated and agreed to at the time the indebtedness was incurred, it is of the utmost importance that we observe the pertinent fact that the very notes upon which Armour recovered its Illinois judgment against Sanders contained an express provision whereby Sanders waived and renounced for himself and family any and all exemption rights he might have under or by virtue of the constitution or laws of Texas, or any other state of the United States. (R. 89-97.)

Armour is not relying upon this waiver of exemption contained in the notes in question, because, for the reasons already stated, it believes that its rights in this case were fixed by its judgment against Sanders in Illinois, where the Texas exemption law is conceded by Sanders to have had no force or effect. However, since Sanders has raised this question as to what Armour and Sanders contemplated and agreed to, we call this

Honorable Court's attention to the exemption waivers executed by Sanders.

(B) THERE IS NO EXPRESS CONSTITUTIONAL OR STATUTORY EXEMPTION OF HOMESTEAD INSURANCE MONEY IN TEXAS, BUT SUCH EXEMPTION EXISTS ONLY BY JUDICIAL CONSTRUCTION, AND THE COURTS OF TEXAS HAVE UNIFORMLY HELD THAT SUCH INSURANCE MONEY IS NOT REGARDED AS REAL ESTATE, MUCH LESS AS A SUBSTITUTE FOR THE HOMESTEAD ITSELF, AND THE EXEMPTION AS TO THE INSURANCE MONEY MAY BE WAIVED BY THE HUSBAND, EVEN WITHOUT THE CONSENT OF THE WIFE.

It should be remembered that we are not dealing here with a homestead having a situs exclusively in Texas, but with proceeds from insurance policies which are neither limited as to situs nor fully exempt as a homestead. There is no express constitutional or statutory exemptions in Texas of the proceeds of insurance upon a homestead. The Texas Constitution provides that "the homestead, not in a town or city, shall consist of not more than two hundred acres of land, which may be in one or more parcels, with the improvements thereon" and further that "the homestead in a city, town or village, shall consist of lot or lots, not to exceed in value five thousand dollars, at the time of their designation as a homestead, without reference to the value of any improvements thereon". Texas Constitution, Article XVI, Section 51. The Texas statute defines a homestead in similar terms. Texas Revised Civil Statutes (1925), Article 3833. And the only other statutory provision in Texas regarding the homestead is that "the proceeds of the voluntary sale of the homestead shall not be subject to garnishment or forced sale within six months after such sale". Texas Revised Civil Statutes (1925), Article 3834.

The exemption of proceeds from insurance upon a

homestead in Texas exists only by judicial construction, but the courts of Texas have uniformly held that even though such proceeds are exempt for a time, the proceeds are not regarded as real estate, much less as a substitute for the homestead itself. *Cameron* v. *Fay*, 55 Tex. 58; *Whitsell* v. *Jones*, 39 S. W. 405, *Alvarado National Bank* v. *Ferguson*, 55 Tex. Civ. App. 113, 126 S. W. 622; *Russell* v. *Hamilton*, 174 S. W. 705. And the exemption as to the proceeds of the insurance upon a Texas homestead may be waived, and this may be done by the husband alone, without the joinder of the wife. In *Whitsell* v. *Jones*, *supra*, the Texas court said:

> "There can be no doubt that he (the husband) could appropriate it, without the consent of the wife, to the payment of debts, and could in good faith invest it in other property than another homestead; and it would follow that he could, without her knowledge or consent, *waive the exemption* * * *." (Parenthesis and italics ours.)

CONCLUSIONS.

By virtue of garnishment proceedings in the State of Illinois, Armour acquired a lien upon the whole of the insurance credits attached there, prior to the institution of the interpleader action in this cause. Upon the institution of this interpleader action, the garnishees deposited the insurance credits with the District Court in the form of actual money. This change in the form of the insurance credits was voluntary on the part of the garnishees and without Armour's consent. Since equity disregards form for substance, Armour's Illinois lien followed the insurance credits into the District Court. The superiority of Armour's

lien over Sanders' exemption claim had been previously adjudicated by a court of competent jurisdiction in the garnishment action in Illinois, where the insurance credits had a situs sufficient to that end, and where the Texas exemption laws were of no effect. Under the full faith and credit clause of the United States Constitution, the Circuit Court of Appeals below correctly held that the insurance money should be paid to Armour.

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